IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

**O R D E R**

S.B. CRIMINAL REVISION PETITION NO. 299/2007
*BHAGWAN DAS Vs. M/S PRATEEK ENTERPRISES*

DATE: 02.04.2007.

**HON'BLE MR. K.S. RATHORE, J.**

Mr. Anil Upman for the petitioner.
Mr. Manoj Bhardwaj for the complainant-respondent.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is directed against the judgment dated 26.03.2007 passed by the Special Judge (Sati Niwaran) Rajasthan & Additional Sessions Judge, Jaipur in Criminal Appeal No. 537/2006, whereby the Appellate Court has confirmed the judgment dated 27.09.2006 passed by the Civil Judge (Sr. Division) & Additional Chief Judicial Magistrate No.10, Jaipur City, Jaipur in Criminal Case No. 3059/2006, by which the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and a fine of Rs. 1,25,000/-, in default of payment of fine to further undergo simple imprisonment for three months. It was also ordered that out of Rs. 1,25,000/-, Rs. 1,20,000/- be given to the complainant and the remaining Rs. 5,000/- be deposited in Government exchequer.

Learned counsel for the petitioner submits that an agreement/compromise has been arrived at between the parties which has not been opposed by the learned counsel appearing for the complainant-respondent and as per the agreement whatever due pursuant to the cheque has been paid to the respondent and the respondent also satisfied with this. The written agreement is also placed on record for perusal of the Court.

Further the learned counsel for the petitioner placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of **Anil Kumar Haritwal and another Vs. Alka Gupta and another, reported in 2004 AIR SC 3978,** wherein it has been held that Sections 138, 147 of the Negotiable Instruments Act- Offence of cheque dishonour- Compoundable in view of Section 147- Conviction and sentence for offence under Section 138 set-aside in view of fact that dispute is settled and amount due to complainant has been paid.

I have heard learned counsel for the petitioner, learned counsel for the complainant-respondents and have also gone through the impugned judgment as also the judgment of the Hon'ble Supreme Court referred by the learned counsel for the petitioner.

Here in the instant case also, dispute is settled and the amount due to complainant has been paid and the written agreement is also submitted before this Court.

In view of the aforesaid agreement and in view of the ratio decided by the Hon'ble Supreme Court in the aforementioned case of **Anil Kumar Haritwal and another (supra),** the conviction and sentence awarded to the petitioner for the offence under Section 138 of the Negotiable Instruments Act are hereby quashed and set-aside.

As the conviction and sentence awarded to the petitioner under Section 138 of the Negotiable Instruments Act are quashed and set-aside as indicated above, the petitioner who is in jail, shall be released forthwith if not required to be detained in any other case.

The revision petition stands disposed of.

A copy of the written agreement be taken on record.

**(K.S. RATHORE),J.**

/KKC/